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PTO/SB/33 (07-05)
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PRE-APPEAL BRIEF REQUEST FOR REVIEW

Docket Number (Optional): 251812-1030

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Application Number	Filed
10/714,634	11-18-2003

First Named Inventor: Hui-Huang Chang

Art Unit	Examiner
2624	Akhavannik, Hadi

Applicant requests review of the final rejection in the above-identified application. No amendments are being filed with this request.

This request is being filed with a notice of appeal.

The review is requested for the reason(s) stated on the attached sheet(s).
Note: No more than five (5) pages may be provided.

I am the

- [ ] applicant/inventor.
- [ ] assignee of record of the entire interest. See 37 CFR 3.71. Statement under 37 CFR 3.73(b) is enclosed. (Form PTO/SB/96)
- [X] attorney or agent of record. Registration number 38,962.
- [ ] attorney or agent acting under 37 CFR 1.34. Registration number if acting under 37 CFR 1.34 _____

/Daniel R. McClure/
Signature

Daniel R. McClure
Typed or printed name

770-933-9500
Telephone number

May 26, 2008
Date

NOTE: Signatures of all the inventors or assignees of record of the entire interest or their representative(s) are required. Submit multiple forms if more than one signature is required, see below*.

[X] *Total of 1 forms are submitted.

This collection of information is required by 35 U.S.C. 132. The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.11, 1.14 and 41.6. This collection is estimated to take 12 minutes to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. **SEND TO: Mail Stop AF, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.**

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IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In Re Application of:	)	
	)	
Hui-Huang Chang	)	Confirmation No: 3258
	)	
Serial No.: 10/714,634	)	Examiner: Akhavannik, Hadi
	)	
Filed: November 18, 2003	)	Group Art Unit.: 2624
	)	
For: **APPARATUS FOR REDUCING ZIPPER OF IMAGE AND METHOD THEREOF**	)	TKHR Docket: 251812-1030 Realtek Ref: 91A-024US
	)	

REMARKS IN SUPPORT OF PRE-APPEAL BRIEF REQUEST FOR REVIEW

Sirs:

The FINAL Office Action and ensuing Advisory Action mailed May 15, 2008, continue to reject all pending claims. Applicant appeals these rejections, and requests that the rejections be overturned for the following, fundamental reasons.

First, the Advisory Action stated (in total):

> The Examiner notes that Fiete discloses an interference model that uses brightness in column 4 lines 1-55 discloses using brightness. Also the Examiner believes that his interpretation of an interference model is a reasonable interpretation. If the Applicant wishes to have a more specific interpretation then he should include that in the claim. Please note that examiner was not arguing that Interference model did not have any limitations in the independent claim. Rather the Examiner was only mentioning that an interference model can be read broadly even with the limitations in the independent claim. Also the Examiner believes that the Applicant should further define "corresponding" if he wishes to have the limitation as argued in the remarks.

The Examiner's interpretation of the claimed "interference model" is clearly deficient, as it ignores certain expressly claimed limitations. In this regard, claim 1 recites:

> 1. A method for building a recovery model, the recovery model being used to reduce a zipper of image data, said method comprising:
> producing a plurality of outputted signals according to a plurality of brightness, wherein the brightness are not all the same;
> measuring a plurality of differences according to the outputted signals and a plurality of estimated signals corresponding to the brightness;
> establishing an interference model according to the differences; and
> producing the recovery model according to the interference model.

As can be readily verified from the claim, the various elements are expressly linked together, such they must be construed accordingly. Specifically, the interference model is established "according to the differences." The differences, in turn, are measured according to outputted signals ***and*** a plurality of estimated signals corresponding to brightness. Finally, the outputted signals are produced according to a plurality of brightness, which are not all the same. Consequently, the interference model, as expressly claimed by claim 1, is expressly defined to be established according to differences measured from output signals (that are produced according to a plurality of brightness that are not all the same) ***and*** a plurality of estimated signals (that correspond to brightness). No such relationship is disclosed or suggested in Fiete.

In fact, the cited portion of Fiete (col. 4, lines 1-55) merely provides a mathematical explanation of a computation of the difference $\Delta(x,y)$ between ***adjacent pixels***, in connection with the phenomenon of streaking in a digital image (because adjacent detectors in the digital sensor have different response curves). Significantly, the cited portion of Fiete provides no relevant teaching of the claimed, interrelated features of "producing a plurality of output signals…", "measuring a plurality of

differences according to the outputted signals ***and*** a plurality of estimated signals …", and "establishing an interference model according to the differences." For at least this fundamental reason, the rejection should be overturned.

In addition, and as noted in Applicant after-FINAL response, Fiete teaches nothing relevant to the claimed feature of "producing the recover model according to the interference model." The Advisory Action, however, did not address or respond to this distinction.

For at least the foregoing reasons, the rejection of claim 1 should be overturned.

Second, the FINAL Office Action (see page 3) appears to have given no weight to the fundamental aspect of the claimed embodiment: namely, building a recovery model to be used to reduce a zipper of image data. In this regard, the FINAL Office Action stated that "the body of the claim never refers back to 'zipper of image' and therefore this part of the claim is not given weight." This is improper, as claim preambles are to be given appropriate weight. The Examiner is correct that, when phrases are used in both the preamble and the body of the claim, those phrases definitely limit the claim. However, the claim preamble need not be repeated in the body of the claim to receive patentable weight. In this respect, if the preamble is "necessary to give life, meaning and vitality" to the claim, then the claim preamble should be construed as limiting. *Kropa v. Robie,* 187 F.2d 150, 152, (CCPA 1951). A claim preamble "may entirely fail to supply a necessary element in a combination, yet it may so effect the enumerated elements as to give life and meaning and vitality to them, as they appear in the combination." *Bell Communications Research*, 34 U.S.P.Q.2d at 1820. In the present situation, the very purpose of the claimed embodiment is to reduce a zipper of

image data. As this is fundamental to the claimed embodiment, it was improper to refuse to consider this feature, and it was clearly erroneous to apply the teachings of Fiete (which reduce or remove columnar streaking) as anticipating the claimed embodiments.

Having said this, Applicant would be agreeable to amend the last element of claim 1 to expressly recite: "producing the recovery model according to the interference model, the recovery model being used to reduce a zipper of image data." Applicant does not believe that any such amendment changes the proper substantive scope of the claim, but if it makes a difference to the Examiner's interpretation, Applicant would be agreeable to the change. The last element of claim 1 already defines the production of the "reference model," which reference model is defined in the preamble as being used to reduce zipper. As such, it is believed that this use so fundamental defines the reference model as to breath life and meaning into the body of the claim, with respect to the removal of zipper.

For at lease the foregoing reasons, the rejection of claim 1 should be overturned. The rejection of claim 5 should be overturned for similar reasons. As all remaining claims depend from either claim 1 or claim 5, all rejections should be overturned.

A credit card authorization is provided herewith to cover the fees associated with the accompanying Notice of Appeal and petition for extension of time. No additional fee is believed to be due in connection with this submission. If, however, any additional fee is deemed to be payable, you are hereby authorized to charge any such fee to Deposit Account No. 20-0778.

Respectfully submitted,

/Daniel R. McClure/

By: _____

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